



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135



Arnold
Schwarzenegger
Governor

August 7, 2006

Mr. Chris Peterson
Rivendale Communities
P.O. Box 2217
Santa Rosa, CA 95405

Dear Mr. Peterson:

Subject: Order for Technically-Conditioned Clean Water Act Section 401
Certification (Water Quality Certification): Rivendale Communities Wright
Preservation Bank Project

File: Rivendale Communities Wright Preservation Bank Project, Occidental
Road, Santa Rosa, Sonoma County; WDID No. 1B05123WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). On September 7, 2005, the Regional Water Board received a Clean Water Act, Section 401 application and processing fee in the amount of \$506.00 from Mr. Chris Peterson (Applicant), on behalf of Rivendale Communities, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Rivendale Communities Wright Preservation Bank Project located in Santa Rosa, Sonoma County. On December 29, 2005, a Request for Additional Information was issued to the Applicant. On March 10, June 1, and July 21, 2006, the requested information was received. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project causes disturbances to seasonal wetland habitat associated with the Laguna Hydrologic Sub Area, Russian River Hydrologic Unit No. 114.21.

Project Description: The project is located on the 11.8-acre southwest corner of the existing Wright Preservation Bank on Occidental Road, Santa Rosa, Sonoma County (APN 035-050-014, -023). The purpose of the project is to enhance existing seasonal wetland habitat in a network of swales to provide habitat for endangered Burke's goldfields (*Lasthenia burkei*) as well as the creation of vernal

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pool habitat to be used for the mitigation of future Rivendale Communities projects. Approximately 2.15 acres of credited vernal pool and connecting swale habitat will be enhanced and created with 1.65 acres receiving full creation credits and 0.93 acres to receive 54-percent enhancement credit (0.50 acres).

Fill will be placed in 0.089 acres (3,887 square feet, 21 cubic yards) in one location to raise the existing grade from 99.3 feet to 99.9 feet at an outlet. The outlet must be at the 99.9 feet elevation to achieve optimal hydrologic and soil conditions for Burke's goldfields while leaving a swale that has a surface gradient of less than one percent and is not vulnerable to erosion. The fill will be 0.57 feet at its greatest thickness in the middle of the outlet and will feather to zero feet approximately 95 feet downgradient.

The project will involve the use of self-loading paddle wheel scrapers, tracked bulldozers, front-end loaders, and trucks used to excavate and load excess material. The total wetland mitigation project involves fence removal, vine removal, construction of a water-restricting horizon, wetland construction, and disposal of excess subsoil. No soil importation, dewatering or disposal of waste will occur on the site.

California tiger salamander (*Ambystoma tigrinum californiense*) (CTS) larval surveys were performed in 2002-03 by David Cook. According to these surveys, none of the vernal pools in the proposed work area were found to support CTS. A passive relocation program began fall 2005 to allow breeding CTS to move out of the work areas until the project has been completed. Excavation will occur 100 feet from known Sebastopol meadowfoam (*Limnanthes vinculans*) populations. These colonies will be protected by Environmentally Sensitive Area (ESA) fencing throughout construction.

Construction will take place only during periods of dry soils and is proposed to begin summer 2006.

Receiving Water: Seasonal wetland habitat, Laguna Hydrologic Sub Area, Russian River Hydrologic Unit No. 114.21

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit 27 – Stream and Wetland Restoration Activities (Pending)

State and Local
Approvals:

A Lake and Streambed Alteration Agreement from the Department of Fish and Game is not required for this project.

Filled or
Excavated Area:

Total Area Impacted: 0.089 acres of seasonal wetland habitat
Area Temporarily Impacted: 0.00 acres
Area Permanently Impacted: 0.089 acres

Compensatory
Mitigation
Overview:

Total Mitigation Area: 2.58 acres
Wetland Created/Restored: 1.65 acres
Wetland Enhanced: 0.93 acre (54 percent credit rate)
Wetland Existing (Avoided): 0.00 acre

Compensatory
Mitigation:

Compensatory mitigation will not be required as the project will be self-mitigating by resulting in a net increase of the existing wetland habitat through the creation and enhancement of approximately 2.15 acres of seasonal wetland habitat. (*Mitigation and Monitoring Plan, Wetland Enhancement and Creation, Wright Preservation Bank, Santa Rosa, California; Dr. Laurence P. Stromberg, August 28, 2005*)

Non-compensatory
Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality from the project. Mitigation measures include the use of construction storm water erosion control Best Management Practices (BMPs).

Post-Construction
Storm Water
Pollution Prevention:

In addition, to deal with the Regional Water Board's requirement to provide post-construction storm water treatment for the project, the Applicant will construct and/or install BMPs that are designed according to calculations used to determine the size necessary to treat the runoff from the 85th percentile/24-hour storm event.

CEQA Compliance:

The Regional Water Board, as the lead agency for this project, has determined that this project is categorically exempt from provisions of the California Environmental Quality Act (CEQA)

under Class 7 and 8 CCR 15307 and 15308 – Actions by Regulatory Agencies for Protection of Natural Resources and Actions by Regulatory Agencies for Protection of the Environment, respectively.

Standard
Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23).
- 2) This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23 and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23 and owed by the applicant.

Additional
Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or

other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into Waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

- 3) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.
- 5) A copy of this Order shall be provided to the contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 6) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 7) Monitoring Requirements – Construction and mitigation work will be implemented and monitored as proposed in the application (*Mitigation and Monitoring Plan, Wetland Enhancement and Creation, Wright Preservation Bank, Santa Rosa, California*; Dr. Laurence P. Stromberg, August 28, 2005) and as follows:

Wetland Mitigation: Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15th during each calendar year for a total of five years. Reports shall include photo documentation of the Rivendale Communities Wright Preservation Bank mitigation area. After five years have passed, the mitigation will be evaluated for successful attainment of the final wetland criteria as outlined in the U.S. Army Corps of Engineers 1987 Delineation Manual, and a

decision will be made whether additional mitigation measures are necessary to ensure that no net loss of wetland habitat occurs. Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Stephen Bargsten.

- 8) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

- 9) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from Rivendale Communities Wright Preservation Bank Project (WDID No. 1B05123WNSO) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341

(a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 31, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Stephen Bargsten of our staff at (707) 576-2653 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ,
General Waste Discharge Requirements for Dredge and Fill Discharges
That Have Received State Water Quality Certification

cc: Mr. Oscar Balaguer, SWRCB, 401 Program Manager,
Mr. Peter Straub, U.S. Army Corps of Engineers, Regulatory Branch,
333 Market Street, San Francisco, CA 94105
Dr. Laurence Stromberg, Wetlands Consultant, 59 Jewell Street,
San Rafael, CA 94901

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